

**Minutes - Board of Commissioners
Upper Pottsgrove Township**

August 17, 2009

The meeting of the Board of Commissioners was held on Monday, August 17, 2009, at the Upper Pottsgrove Township Administrative Office, 1409 Farmington Avenue, with Commissioners Dolan, Spaide and Taylor present. Also present were Township Solicitor Charles D. Garner, Jr., Township Manager Jack P. Layne, Jr., Township Engineer John Theisen and Township Secretary Cynthia Saylor. Mr. Taylor called the meeting to order at 7:00 P.M. There were 40 people and a Mercury Reporter present in the audience. Commissioner Noll was absent.

MOMENT OF SILENCE - Commissioner Taylor requested a moment of silence in honor of the men and women who have served and are currently serving our county in the armed forces.

PLEDGE OF ALLEGIANCE - Those assembled pledged allegiance to the flag.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION #565 APPOINTING A COMMISSIONER TO FILL THE VACANCY CREATED BY THE RESIGNATION OF MEGAN DELENA - Commissioner Taylor asked for nominations to fill the vacancy created by the resignation of Megan DeLena. Commissioner Dolan nominated Herbert Miller. Commissioner Spaide seconded the nomination. Attorney Chuck Garner explained that under the First Class Township Code the Board is permitted by Resolution to appoint a successor to fill the vacancy. Attorney Garner noted that the appointment would extend only until the first meeting in January of next year. A motion by Dolan, seconded by Spaide, to approve Resolution #565 appointing Herbert Miller to fill the vacancy created by the resignation of Megan DeLena. All aye votes.

COMMISSIONER TAYLOR'S COMMENT - As elected officials we have the great responsibility and privilege of representing the people who elected us to do so. Collectively, during the course of our tenure, we make countless decisions affecting the lives and livelihoods of our neighbors - taking into consideration both the will of the people and the constraints of the law. Megan DeLena's leadership and clear voice will be sorely missed in our deliberations. Several people have volunteered to fill the remaining four months of her tenure until the public voice is heard at the next General Election in November. These candidates have all spoken out in public meetings and, in personal conversations with me have expressed thoughtful concerns for the needs of our community. I will be choosing Herb Miller, based in part on his long record of community service. He has been a member of the Township's Planning Commissioner for over a decade. He has been a long-term member and current chairman of our highly successful Open Space Committee. He also chairs our Township's Historical Commission and is an active member of our Parks and Recreation Board. For good measure, he is also an integral part of the Township's Emergency Operations Center when it is called into service. And if that's not enough to recommend Mr. Miller to fill the vacancy, then the people have made my choice easy, since they have already voiced their support for Herb's selection by giving him more votes than any other declared candidate in last May's Primary Election. I am confident, that Mr. Miller's demonstrated interest and intimate knowledge of township affairs will prepare him well to hit the ground running as he joins this Board of Commissioners. All aye votes.

OATH OF OFFICE - Judge Palladino administered the Oath of Office to newly appointed Commissioner Herbert Miller.

PUBLIC COMMENT:

HENRY BEALER - 1382 Farmington Avenue - Expressed his concern regarding tree limbs falling onto his property from his neighbor's yard. Mr. Layne stated he spoke to the Zoning Officer regarding the matter. He further stated he would follow up again tomorrow.

When **ROBERT SLOSS, 2097 Needhammer Road**, questioned the status of Commissioner Noll; Commissioner Taylor stated Commissioner Noll is on vacation; however he may be coming to the meeting later.

KEITH KEHL - 1941 Gilbertsville Road - Referenced the sewer project along Gilbertsville Road and noted that there is water running from the trench that was dug. Mr. Kehl stated the water is running onto his property and also his neighbor's property. Mr. Kehl noted that the Gilbertsville Road is full of gravel and asked that the contractors clean the road at the end of the day. Commissioner Taylor stated the water running from the trench has been addressed and explained that the plans have been adjusted to siphon the water into the creek. Mr. Kehl requested clarification with regards to hooking up to the sewer system. Commissioner Taylor suggested that Mr. Kehl speak with Chris Pelka, LTL Consultants, and the Township Manager regarding the matter.

JOHN WEST - 1611 Applegate Lane - Questioned the date for the public hearing regarding the proposed R-2 Twin Zoning Ordinance. Mr. Layne stated the public hearing is scheduled for Monday, September 21, 2009.

SCOTT WILSON - 871 North Hanover Street - Stated he owns two commercial properties and he is currently being charged a flat sewer bill; however he is being metered for his water usage. Mr. Wilson requested that his sewer be metered rather than paying the flat rate. Commissioner Taylor stated there several different connections for several different properties and they are all required to pay the flat fee for sewer service. Mr. Taylor explained that the metering method takes place only if you are using over an EDU quantity per connection. Each property is a "stand alone."

RICH BALL - 1371 Chestnut Grove Road - Questioned whether trash cans could be provided at the PAL ball field parking lot.

REPORTS:

EMERGENCY SERVICES REPORT - Copies of the monthly reports will be posted on the bulletin board.

PLANNING AND ZONING REPORT - Commissioner Taylor stated the Planning Commissioner did not meet this month.

PUBLIC WORKS REPORT - Commissioner Spaide stated the Public Works Department has been busy patching potholes and mowing. Ms. Spaide noted a copy of the monthly report would be posted on the bulletin board.

PARKS, RECREATION AND OPEN SPACE REPORT - Commissioner Dolan stated he had no new information to report.

TOWNSHIP ENGINEER'S REPORT - A copy of the monthly Engineer's Report will be posted on the bulletin board.

SOLICITOR'S REPORT - Attorney Chuck Garner reported he has prepared the amendment to the R-2 Zoning District and a public hearing has been scheduled for Monday, September 21, 2009. Mr. Garner further reported he received from a Bill of Sale from Renovations by Design transferring and conveying to the Township their (Renovations) interest in the Phase I sewer line in Farmington Avenue. Mr. Garner explained that previously there had been some dispute as to the ownership of the sewer line; however the Township has now received the appropriate documents signed, by the Developer, conveying to the Township interest in this sanitary sewer line. He further noted that the law suite that had been filed with respect to the Farmington Avenue West project has been withdrawn. After further discussion, a motion by Spaide, seconded by Dolan, to approve and authorize the execution of the Bill of Sale accepting the dedication of the Phase I Farmington Avenue sewer pipe and authorizing the release of the financial security subject to the review and approval of the Engineer and Solicitor. All aye votes. Attorney Garner stated that last year a public hearing was held with regards to a new Retail Office Zoning Ordinance which would replace the current Commercial Ordinance. After discussion, a motion by Dolan, seconded by Spaide, to authorize the Solicitor to schedule a public hearing on the creation of the Retail Office Zoning Ordinance. All aye votes. Mr. Garner noted the public hearing will be scheduled early in October. The Board also discussed the subdivision of existing single tax parcels that previously had been created from multiple deeded parcels and whether the Township should require a formal subdivision process if the owner plans to sell the smaller parcels, or will we allow landowners to simply consider the smaller parcels as already "subdivided" for sale/development purposes.

After discussion, a motion by Spaide, seconded by Dolan, to allow separately described parcels to be conveyed out without subdivision subject to review and approval of the Manager. All aye votes.

DIANA UPDEGROVE - 1404 Farmington Avenue - Expressed her concern with regards to accessibility. Mrs. Updegrove suggested that copies of the deeds be placed in the property files.

In response to a question from **MICHELLE REDDICK, 1416 Kummerer Road**, Commissioner Taylor clarified that matters would be addressed on a case by case basis and that the Township could require restrictions to be placed on the deeds.

DENNIS ELLIOTT - 576 Evans Road - Addressed Mr. Garner and explained that there is a large parcel of land behind his house; however, the residence is in Douglass Township but the majority of the land is in Upper Pottsgrove Township. Mr. Elliott questioned whether there is anyway that Upper Pottsgrove could capitalize on this with regards to tax revenue. Attorney Garner stated he would have to research the matter.

In response to a question from **ROBERT SLOSS, 2097 Needhammer Road**, regarding any costs involved Attorney Garner stated that typically when staff is involved (LTL Consultants and the Solicitor) there is a professional service agreement that is signed stating that the property owner agrees to reimburse the Township for the out of pocket expenses to pay the professionals.

SOLICITOR'S REPORT CONT'D - Attorney Garner provided an update with regards to the bankruptcy filed by TH Properties.

TOWNSHIP MANAGER REPORT - Mr. Layne reported he coordinated the preparation and submittal of the formal H2O Grant Award Notice from the Commonwealth Financing Authority accepting the conditions of the H2O Grant Award and following through with the process to insure that funds can be procured; attended pre-construction meeting for the Farmington Avenue West Phase II project and coordinated a successful Table-Top Preliminary Exercise on July 30, 2009 in preparation for the Limerick Generating Station Emergency Management Exercise in November. He also coordinated efforts to obtain and review Single-Hauler Trash Bid proposals.

MONTHLY FINANCIAL REPORT - Copies of the monthly Financial Reports were included in the Board members meeting packets.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE #436 REGARDING THE LICENSING OF HOME IMPROVEMENT CONTRACTORS PER ACT 132 - An Ordinance of the Board of Commissioners of Upper Pottsgrove Township Amending the Code of the Township of Upper Pottsgrove, as amended, to Require Contractors Performing Home Improvement Contracts to Demonstrate Registration with the Commonwealth of Pennsylvania prior to Performing Said Contracts in Upper Pottsgrove Township; Providing for Definition of Terms; Declaring the Provisions of the Ordinance to be Severable and to Repeal any Inconsistent Ordinances. A motion by Spaide, seconded by Miller, to adopt Ordinance # 436. All aye votes.

ROBERT SLOSS - 2097 Needhammer Road - Requested clarification as to whether landscaping would be considered a home improvement and would landscapers need to be licensed.

In response to a question from **CARL SPECHT, 150 Primrose Lane**, Commissioner Taylor stated that contractor licensing is no longer required by the Township.

DISCUSSION AND POSSIBLE ACTION REGARDING NATIONAL PREPAREDNESS MONTH - Reggie Leister explained that "National Preparedness Month: creates an important opportunity for every Township resident to prepare their homes, business and communities for any type of emergency from natural disaster to potential terrorist attacks.

DISCUSSION AND POSSIBLE ACTION REGARDING NATIONAL PREPAREDNESS

MONTH - He further explained that all residents are urged to make preparedness a priority by following four (4) simple steps: get an emergency supply kit, make a Family Emergency Plan, be informed about the types of emergencies that can occur and get involved with local preparedness organizations and efforts. A motion by Spaide, seconded by Miller, to adopt the Proclamation proclaiming September 2009 as National Preparedness Month. All aye votes. The Commissioners expressed their thanks and appreciation to Mr. Leister for all his efforts with regards to the Emergency Preparedness Operations.

DISCUSSION AND POSSIBLE APPROVAL OF AGREEMENT ALLOWING FOR A REDUCTION OF SEWER EDUs ALLOCATED FOR THE OLOCK PROPERTY -

Attorney Chuck Garner reported the Sewer and Water Committee received a request from Andrew Olock who owns properties located at 935, 937, 939 and 941 North Hanover Street to consider a reduction in his EDU allocations. Mr. Olock is presently being assessed at seven EDU's to service the above properties. Attorney Garner presented an Agreement which would reduce the number of sewer EDU's allocated from seven (7) EDU's to four (4) EDU's effective September 1, 2009. Mr. Garner noted that any reduction would be consistent with the requirements of the Pottstown Borough Authority. A motion by Miller, seconded by Dolan, to approve the Agreement subject to Mr. Olock executing the document. All aye votes.

ROBERT SLOSS - 2097 Needhammer Road - Questioned whether Mr. Olock has seven properties. Commissioner Taylor clarified that it's not seven houses; it's seven EDU's and this is commercial property.

DISCUSSION AND POSSIBLE APPROVAL OF TOWER ONE PARTNERS OPTION

AGREEMENT - Attorney Garner explained that Tower One is a company which brokers and constructs cell towers and then looks for carriers to locate on their tower. Attorney Chuck Garner explained the Agreement would allow Tower One to review various properties within the Township to place any potential communication tower. Mr. Garner stated the attractiveness of this option, is that from a revenue sharing prospective the Township will receive significantly more revenue under this scenario than if we just dealt with the carrier directly. He further stated that Tower One is requesting that the Township enter into a three (3) year contract and that they (Tower One) becomes the Township's agent.

ARMANDO JOHNSON - 236 Micklitz Road - Questioned whether the revenue is generated based solely on the number carriers on the cell tower or will it be based on the lease of the land. Attorney Garner stated that typically there is a fixed value for the land and then there is the lease revenue based upon what can be earned from the carriers on the tower.

JOHN WEST - 1611 Applegate Lane - Expressed concern that a tower would be place on Township open space property.

ROBERT SLOSS - 2097 Needhammer Road - Expressed his concern regarding the Township signing a three year contract with Tower One. Attorney Garner stated

JOHN WEST - 1611 Applegate Lane - Questioned what happens after the three year commitment. Mr. Garner explained the Agreement with Tower One is only an option to look at property that is available for cell towers; when a site is located then the Township will negotiate a lease.

When **JIM CAPINSKI, 1958 Yarnall Road**, questioned whether Tower One are real estate brokers; Mr. Garner stated "no."

HENRY BEALER - 1382 Farmington Avenue - Expressed his concern that a cell tower may be placed on Kulp field. Commissioner Taylor explained we are not talking about a particular tower on a particular location; we're opening up dialogue with a broker who will help the Township find a location that is appropriate.

When **ROBERT SLOSS, 2097 Needhammer Road**, questioned if the Township signs a three year agreement with Town One would it preclude a resident from making their own arrangement with the cell tower company; Attorney Garner stated "no."

A motion by Spaide, seconded by Miller, to approve the Tower One Partners Option Agreement. All aye votes.

DISCUSSION AND POSSIBLE ACTION REGARDING THE APPOINTMENT OF TWO ALTERNATES TO THE CIVIL SERVICE COMMISSION - This matter was tabled to a future meeting.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION #566 DECLARING INTENT TO FOLLOW THE SCHEDULES AND PROCEDURES FOR THE DISPOSITION OF PUBLIC RECORDS - A motion by Dolan, seconded by Spaide, to approve Resolution #566 declaring the Township's intent to follow the schedules and procedures for the disposition of public records. All aye votes.

When **REG LEISTER, 1693 Farmington Avenue**, questioned whether the Resolution included information regarding Civil Service; Mr. Layne stated he would provide him with a copy of the Municipal Records Manual.

DISCUSSION AND POSSIBLE ACTION ON THE PROPOSED EASEMENT WITH SUPERIOR WATER COMPANY - Commissioner Taylor explained that Superior Water has requested from the Township an easement along the boundary of the Kulp Field and Hoffman Park as they abut and coincide with the Gilbertsville Road public right of way. Commissioner Taylor noted that Superior will add a fire hydrant at the corner of Moyer and Gilbertsville Road and at the entrance to Regal Oaks as well as a water fountain at Kulp Filed. After a brief discussion, a motion by Spaide, seconded by Dolan, to approve the proposed easement with Superior Water. All aye votes.

CARL SPECHT - 150 Primrose Lane - Expressed his concern that the members of the Board were not using their microphones and could not be heard by the audience.

DISCUSSION AND POSSIBLE ACTION ON THE TRASH AND RECYCLING COLLECTION CONTRACT - Commissioner Taylor explained that the Township is obligated to comply with DEP's Act 101 requirements regarding the separation of yard waste and leaves from land fills through the use of properly established compost sites. He further explained that the Board had previously investigated a joint project with surrounding municipalities and found that it would impact the General Fund by thousands of dollars. The Board has also investigated how a Township-Wide Hauling Contract might satisfy our obligations and prepared bid specifications. Mr. Taylor stated the Township received four bids. He further stated the Township is looking at service that would include weekly trash collection and recycling, the collection of bulk items, tire collection, per bag service and contractor billing. Mr. Taylor reported residents who participate will see a cost of \$76 per quarter for the first year with a four (4) percent increase each year over the course of the contract. Residents will have the right to opt-out by notifying the Township they are using the services of another approved hauler and may opt-in at any future time at the then current rates. Commissioner Dolan expressed his appreciation to Mr. Layne for all his efforts with regards to the trash collection contract. Mr. Dolan stated he feels this is a great opportunity and the resident will be able to save money. Commissioner Spaide noted she was happy with the call-in for bulk items.

When **JOHN WEST, 1611 Applegate Lane**, questioned whether new receptacles would be provided by the trash hauler; Commissioner Taylor said "yes." Mr. West also questioned the turn around time when calling to have a bulk item picked up. Mr. Garner stated according to the specs you must call 72 hours in advance for a bulk item pick up.

In response to a question from **ARMANDO JOHNSON, 236 Micklitz Road**, Commissioner Taylor explained when a resident chooses to opt-in they will pay the current rate at that time.

KEITH KEHL - 1941 Gilbertsville Road - Requested clarification with regards to the cost of using the bag service. Commissioner Taylor explained to use the bag service you must pay a flat fee of \$143 per year plus the cost of bags.

DEB BINGHAM - 1998 Detweiler Road - Requested a clarification with regards to the "opt-out" option and the billing process.

When **TOM WERT, 183 Primrose Lane**, questioned who submitted bids for the Trash Collection contract; Commissioner Taylor stated the Township received bids from Waste Management, J. P. Mascaro, A. J. Blosenski and Ches-Mont Disposal.

ROBERT SLOSS - 2097 Needhammer Road - Questioned whether the program was strictly voluntary for the residents. Commissioner Taylor stated if a resident is using service from another authorized trash hauler than they are not required to use the contract hauler.

JIM CLARK - A.J. Blosenski - Expressed his concern regarding interpretation and that some of the language in the bid documents was vague. Attorney Garner stated that the Township held a pre-bid meeting and the bid opening was postponed in order to ensure that questions had been answered.

A motion by Dolan, seconded by Spaide, to make a conditional award to the lowest responsible and responsive bidder for a five year trash and recycling contract, with options to include the base bid, collection of yard waste, call as needed bulk items, call as needed tire pickup, bag service and contractor billing, subject to the review and approval of the Township Manager, Engineer, and Solicitor. All aye votes.

MICHELLE REDDICK - 1416 Kummerer Road - Clarified that no matter how many people choose to opt-out the price will not change.

DENNIS ELLIOTT - 576 Evans Road - Requested clarification with regards to the collection of yard waste.

JOHN WEST - 1611 Applegate Lane - Expressed concern regarding the 4% increase every year and noted over a period of five years that's a 20% increase.

CHUCK RAUDENBUSH - Waste Management - Stated that due to some confusion with several of the bidders all bids should be rejected and the contract re-bid.

ROBERT SLOSS - 2097 Needhammer Road - Expressed his concern that if too many residents choose to opt-out the costs would be higher than \$76 per quarter. Attorney Garner stated the contract was bid with the opt-out language and the bidders knew not all 1,882 residents would participate.

RICH BALL - 1361 Chestnut Grove Road - Stated that if two of the four bidders are confused the Township should let them re-bid and maybe the numbers will be even better.

JIM CLARK - A. J. Blosenski - Questioned why the Board can't re-bid the contract since two of the contractors are confused and legal issues are anticipated. Attorney Garner stated the Township tried to work through these issues at the pre-bid meeting and we're still hearing concerns after the fact.

DISCUSSION AND POSSIBLE ACTION ON A REQUEST TO EXTEND THE FINAL PLAN APPROVAL FOR THE BOERNER, AND BACHMAN SUBDIVISION PLANS –

Attorney Garner reported that both projects have final plan approval subject to certain conditions being satisfied. He further reported that based on the economy those conditions have not yet been satisfied; however, the applicants have indicated their interest in wanting to proceed and have requested an extension. A motion by Spaide, seconded by Dolan, to grant the request for extension of the final plan approval for the Boerner and Bachman Subdivision plans through December 30, 2010. All aye votes.

In response to a question from JOHN WEST, 1611 Applegate Lane, Commissioner Taylor explained the Boerner tract is located on Chestnut Grove Road across from the PAL fields and the Bachman property is on Maugers Mill Road.

PUBLIC COMMENT:

When DIANA UPDEGROVE, 1404 Farmington Avenue, questioned who the low bidder was; Attorney Garner stated it appears that J. P. Mascaro would be the low bidder; however we must review all the numbers.

DIEDRE SLIFER - 1443 Farmington Avenue - Expressed her concern that since there was some confusion with regards to the language in the bid specifications the quarterly cost could increase. Commissioner Taylor stated whatever contract the Board approves we'll know the numbers.

ALBERT DEGENNARO - J. P. Mascaro - Addressed the Commissioners and they are excited about serving the residents of Upper Pottsgrove Township and we value this contract.

COMMISSIONERS COMMENTS: - None.

TOWNSHIP MANAGER - Mr. Layne pointed out the updated photos of the new fire truck that will be ready in November.

PAYMENT OF BILLS - August 17, 2009 - A motion by Spaide, seconded by Dolan, to approve the Bill List dated August 17, 2009, for General Fund in the amount of \$72,425.45; Fire Fund in the amount of \$11,818.05; Sewer Fund in the amount of \$95,168.46; Capital Fund in the amount of \$47,349.46; Open Space Fund in the amount of \$41,177.31; State Fund in the amount of \$78,875.22 and Escrow Fund in the amount of \$8,028.05. Total Disbursements - \$354,842.00. All aye votes.

APPROVAL OF MINUTES - July 20, 2009 - A motion by Spaide, seconded by Dolan, to approve the minutes of the July 20, 2009, meeting as presented. All aye votes.

ADJOURNMENT - There being no further business, a motion by Dolan, seconded by Spaide, to adjourn the meeting at 8:57 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor,
Township Secretary